

4. ODH shall administer the system, and be fully responsible for system administration, security, and maintenance of the hardware and software. ODH will provide ODJFS with:
  - a. Two-day turnaround for requests for new/changed user ID's for ODJFS staff;
  - b. A mechanism to timely add, delete or modify Medicaid provider numbers; and
  - c. Notification of system enhancements/upgrades. ODH shall notify ODJFS within seventy-two (72) hours of receipt of notification of any system changes, upgrades, or enhancements, and shall share all system documentation with ODJFS. Implementation of system changes shall be coordinated with ODJFS to ensure the accurate transfer of data to ODJFS for Medicaid payment purposes.
5. ODH and ODJFS shall have the ability to use the MDS 2.0 client-server system to communicate with facilities for the purposes of data collection and analysis, and to use the system as a mechanism to deliver reports to providers including RUG III case mix payment and QI reports. ODH shall either establish direct access for ODJFS to post notices/reports and download files or provide a mechanism to transfer such data for ODJFS. Should ODH elect to provide this data transfer service, all files shall be downloaded and all reports shall be posted within seventy-two (72) hours of receipt by ODH.

#### VI. MONTHLY MEETINGS

ODH's Division of Quality Assurance and ODJFS's Bureau of Long-Term Care Facilities shall meet monthly or as otherwise agreed to, to discuss issues related to ODH's and ODJFS's responsibilities as set forth in this Agreement.

#### VII. PROBLEM RESOLUTION

- A. Either ODJFS's Chief of the BLTCF or ODH's Chief of the Division of Quality Assurance shall immediately notify the other of any problems they believe may jeopardize the state's ability to meet federal fiscal, program, or procedural requirements. This notification shall be made in writing, in the form of a "decision memo". The notification will include a request to schedule, within ten (10) working days, a meeting to address the problem.

The agency requesting the meeting should be prepared to:

1. Clearly describe the problem;
2. Identify the scope or extent of the problem;
3. Recommend action needed to solve the problem; and
4. Provide a rationale for the recommended action.

To facilitate discussion, the agency requesting the meeting should distribute a "decision memo" in advance of the meeting. A "decision memo" is a one (1) to two (2) page memorandum using the following format:

1. Issue:
2. Recommendation (s):
3. Background:
4. Rationale:
5. Action Required: - By ODH or ODJFS

If a meeting cannot be arranged within ten (10) working days of receipt of a decision memo, the agency receiving the memo should respond, in writing, either accepting the recommendation or proposing an alternative.

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All decision memos between agencies shall be exchanged at the Bureau/Division Chief level even though the problem discussed may be within an operational unit.

3. If, in either agency's judgment, insufficient progress in meeting any requirements outlined in this Agreement is being made, then either agency may request that the Director of ODH, the Director of ODJFS, and the Governor's Executive Assistant for Health and Human Services or other designee, meet to determine an appropriate resolution to the problem.
3. In the event that a federal disallowance is either threatened or assessed against the State as a result of an alleged failure to meet federal fiscal, program, or procedural requirements, or any requirements outlined in this Agreement, either agency may request that the Director of ODH, the Director of ODJFS, and the Governor's Executive Assistant for Health and Human Services or designee, meet to determine an appropriate resolution to the problems.
3. ODJFS may take such other action as necessary to protect the best interest of Medicaid recipients or of the State.

### VIII. TIME OF PERFORMANCE

#### A. Effective Dates

This Agreement will become effective upon execution and will remain in effect until June 30, 2004, subject to the cancellation provisions contained in this Agreement. This Agreement may be renewed upon satisfactory performance by both parties, upon appropriation of funds for such, and by mutual agreement of the parties.

#### B. Termination

1. This Agreement may be terminated at the convenience of either party without cause upon thirty (30) days written notice of termination to the other party. Notice of termination shall be sent or otherwise delivered to the persons signing this Agreement.
2. This Agreement may be terminated immediately in the event there is a loss of funding, disapproval by a federal administrative agency, or upon discovery of non-compliance with any federal or state laws, rules or regulations. In the event of termination pursuant to this paragraph B.2, a notice specifying the reasons for termination shall be sent as soon as possible after the termination to the non-terminating party.
3. Notwithstanding Paragraph B, 1 above, this Agreement may not be terminated at the convenience of either party if the performance under this Agreement is compelled by State or Federal Statute or Executive Order.

### IX. COMPENSATION

- A. In consideration of the services rendered in accordance with a currently effective Interagency Agreement, ODJFS shall reimburse ODH, upon proper invoicing and preparation of Intrastate Transfer Vouchers (ISTV), the Federal share of the actual costs allowable under applicable federal regulations and guidelines associated with the performance of ODH's duties and responsibilities. Reimbursement shall occur within 30 (thirty) business days of receipt of the ISTV by ODJFS.

This amount shall not exceed the level of federal financial participation available for the execution of this Agreement of Eleven Million, Nine Hundred Thousand and 00/100 Dollars (\$11,900,000.00); such reimbursement may not exceed the amount of the federal survey and certification grant for the portions of federal fiscal years 2003 and 2004 which comprise state fiscal year 2004. ODH shall submit the ISTV to ODJFS's Office of Fiscal Services, 30 East Broad Street, 38<sup>th</sup> floor, Columbus, Ohio 43215.

- B. Payment for any and all services provided pursuant to this Agreement may be contingent upon the availability of federal funds. If the Ohio General Assembly or the federal government disapproves or ceases to continue funding ODJFS for payments due hereunder, this Agreement is terminated as of the date funding expires without notice or further obligation of ODJFS. ODJFS will provide written notice to the ODH (ies) signing this Agreement as soon as possible.

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All obligations in this Agreement are subject to the requirements of Section 126.07 of the Ohio Revised Code.

## X. GENERAL PROVISIONS

### Breach and Default

Upon breach or default of any of the provisions, obligations, or duties embodied in this Agreement, the parties may exercise any administrative, contractual, equitable, or legal remedies available, without limitation. The waiver of any occurrence of breach or default does not constitute waiver of subsequent occurrences, and the parties retain the right to exercise all remedies mentioned herein.

### Amendments

This Agreement may be modified or amended provided that any such modification or amendment is in writing and is signed by the directors of the agencies. It is agreed, however, that any amendments to laws, rules, or regulations cited herein will result in the correlative modification of this Agreement, without the necessity for executing written amendments.

### Equal Employment Opportunity

In carrying out this Agreement, the parties shall not discriminate against any employee or applicant for employment because of race, religion, national origin, ancestry, color, gender, sexual orientation, age, disability, or veteran status. The parties shall ensure that applicants are hired, and that employees are treated during employment without regard to their race, religion, national origin, ancestry, color, gender, sexual orientation, age, disability, or veteran status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

The parties agree to post in conspicuous places, available to employees and applicants for employment, notices stating that the agencies comply with all applicable federal and state non-discrimination laws. The agencies shall, in all solicitations or advertisements for employees, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, gender, national origin, ancestry, sexual orientation, veteran status, disability or age. The parties agree that the foregoing requirements of this paragraph shall be incorporated in all of its contracts for any of the work prescribed herein.

### Confidentiality of Information

The parties agree that they shall not use any information, systems, or records made available to either party for any purpose other than to fulfill the obligations specified herein. The parties specifically agree to be bound by the same standards of confidentiality that apply to the employees of both ODJFS and ODH and the State of Ohio. The terms of this section shall be included in any subcontracts executed by either party for work under this Agreement. The parties specifically agree to comply with state and federal confidentiality laws and regulations applicable to the programs under which this agreement is funded. The parties are responsible for obtaining copies of all applicable rules governing confidentiality and for assuring compliance with the rules by employees and contractors of both ODJFS and ODH. The parties agree to current and ongoing compliance with the regulations found at 45 C.F.R. Section 164.512 (d) regarding disclosure of protected health information under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

The parties agree and acknowledge that the information provided by one or both parties may be considered confidential or proprietary under the laws of the State of Ohio or under federal law. If either party to this Agreement, as public entities, receives a public records request for information related to this document, the party receiving the request (Party "A") will promptly notify the other party (Party "B") of the request. If Party "B" believes there is information that is confidential or proprietary and should not be released, Party "A" will provide a reasonable period of time for Party "B" to seek to have the confidential or proprietary information withheld from the document prior to releasing the document.

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### Compliance with Federal and State Laws, Rules and Regulations

ODJFS and ODH agree to comply with all federal and state laws, rules, regulations, and auditing standards which are applicable to the performance of this Agreement.

### Partial Invalidity

This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Ohio. Should any portion of this Agreement be unenforceable by operation of statute or by administrative or judicial decision, the operation of the balance of this Agreement is not affected thereby; provided, however, the absence of the illegal provision does not render the performance of the remainder of the Agreement impossible. Should the removal of such an unenforceable provision render the intended performance under this Agreement difficult or nonsensical, but not impossible, the parties shall negotiate in good faith replacement provision(s) in keeping with the objectives of the Agreement and the budgetary and statutory constraints of the parties.

### Records Retention

All records relating to costs, work performed and supporting documentation for invoices submitted to ODJFS by ODH along with copies of all deliverables submitted to ODJFS pursuant to this Agreement shall be retained and made available by ODH for audit by the State of Ohio (including, but not limited to ODJFS, the Auditor of State of Ohio, Inspector General or duly authorized law enforcement officials) and agencies of the United States government for a minimum of three (3) years after final payment under this Agreement. If an audit is initiated during this time period, ODH shall retain such records until the audit is concluded and all issues resolved or three (3) years after final payment, whichever is longer. If appropriate, ODH must meet the requirements of the federal Office of Management and Budget (OMB) Circular A-87, A-110, A-122 or A-133.

### Audit Exceptions

1. ODJFS shall be responsible for receiving, replying to, and arranging compliance with any audit exception found by any state or federal audit of this Agreement as it pertains to federal or ODJFS funding of the Agreement. ODJFS shall promptly notify ODH of any adverse findings which allegedly are the fault of ODH. Upon receipt of notification by ODJFS, ODH shall fully cooperate with ODJFS and timely prepare and send to ODJFS its written response to the audit exception.
2. ODH shall be liable for any audit exception that results solely from its acts or omissions in the performance of this Agreement. ODJFS shall be liable for any audit exception that results solely from its acts or omissions in the performance of this Agreement. In the event that audit exceptions result from the acts or omissions of both ODJFS and ODH, the financial liability for the audit exception shall be shared by the parties in proportion to their relative fault.

In the event of a dispute concerning the allocation of financial liability for audit exceptions, the parties agree that the dispute shall be referred to the Office of the Governor for a final, binding determination which will allocate financial liability.

3. For the purpose of this section, the term "audit exception" shall include federal disallowance and deferrals.

### Liability Requirements (other than audit)

To the extent allowable by law, ODH agrees to be responsible for any liability, suits, losses, judgments, damages or other demands brought as a result of its actions or omissions in performance of this Agreement. ODJFS agrees to be responsible for any liability, suits, losses, judgments, damages or other demands brought as a result of its actions or omissions in performance of this Agreement.

### Child Support Enforcement

ODH agrees to cooperate with any Ohio Child Support Enforcement Agency (CSA) in ensuring employees of ODH meet child support obligations established under state law. Further, by executing this Agreement, ODH certifies present and continued compliance with any court or administrative order for the withholding of support.

IN WITNESS WHEREOF, I, ODJFS, APPROVAL DATE 07/01/03  
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which is issued pursuant to the applicable sections in Chapters 3119, 3121, 3123, and 3125 of the Ohio Revised Code.

#### Drug-Free Workplace

By executing this Agreement, the parties certify and affirm that, as applicable to the parties, any subcontractor and/or independent contractor, (including all field staff) associated with the project agree to comply with all applicable state and federal laws including, but not limited to, 29 Code of Federal Regulations (C.F.R.) Part 98 and 45 C.F.R. Part 76 regarding a drug-free workplace. The parties shall make a good faith effort to ensure that all employees will not purchase, transfer, use, or possess illegal drugs or alcohol or abuse prescription drugs in any way while working or while on public property.

#### Public Assistance Work Program Participants

By executing this Agreement, ODH agrees to cooperate with ODJFS and each County Department of Job and Family Services as required by law in providing employment and other work opportunities for recipients of assistance under in the Job Opportunity and Basic Skills (JOBS) program operated pursuant to Sections 5101.80 to 5101.81 of the Ohio Revised Code and recipients of food stamps who are required by law to obtain employment or participate in a work program activity.

#### Entirety of Agreement

All terms and conditions of this Agreement are embodied herein. No other terms and conditions will be considered a part of this Agreement unless expressly agreed upon in writing and signed by both parties.

***Signature Page Follows***

***Remainder of Page Left Intentionally Blank***

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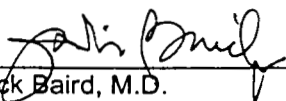
## INTERAGENCY AGREEMENT SIGNATURE PAGE

WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT AS OF THE DATE OF THE SIGNATURE OF THE DIRECTOR OF THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES.

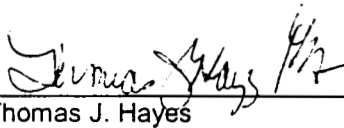
APPROVED BY:

Ohio Department of Health

Ohio Department of Job and Family Services

  
\_\_\_\_\_  
Nick Baird, M.D.  
Director

Ohio Department of Health  
6 North High Street  
Columbus, Ohio 43216-0118

  
\_\_\_\_\_  
Thomas J. Hayes  
Director

Ohio Department of Job and Family Services  
30 East Broad Street, 32<sup>nd</sup> Floor  
Columbus, Ohio 43215-3414

9.05.03  
\_\_\_\_\_  
Date

9-11-03  
\_\_\_\_\_  
Date

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